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10/041,833	10/19/2001	David Laverne Sprinkle	DEE6270P0160US	5412

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EXAMINER

FISCHMANN, BRYAN R

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 06/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/041,833

Applicant(s)
SPRINKLE

Examiner
Bryan Fischmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 26, 2003
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4 and 10-20 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 8, and 9 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Oct 19, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Mar 26, 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Acknowledgments

1. The Amendment and Drawing Corrections (paper 7) filed 3-26-2003 have been entered.

Specification

2. The disclosure is objected to because of the following:

A) The following inconsistencies in nomenclature were noted:

1) Line 2 of page 6 recites "central portion 38a". Line 3 of page 6 recites "central portion 38c".

Note that although the paragraph of the original specification these lines are contained in has been replaced in paper 7, that the above inconsistency in nomenclature remains in paper 7.

To avoid confusion to the reader, and to facilitate identifying components by nomenclature in the claims, it is requested Applicant use consistent nomenclature for the same reference number throughout the specification.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Klee, US Patent 3,828,952.

Klee teaches a utility vehicle comprising:

a chassis (10) supported on wheels (Figure 1);

a loader bucket (12);

a pair of towers (see sketch on next page) supported on said chassis and extending substantially vertically (Figure 1);

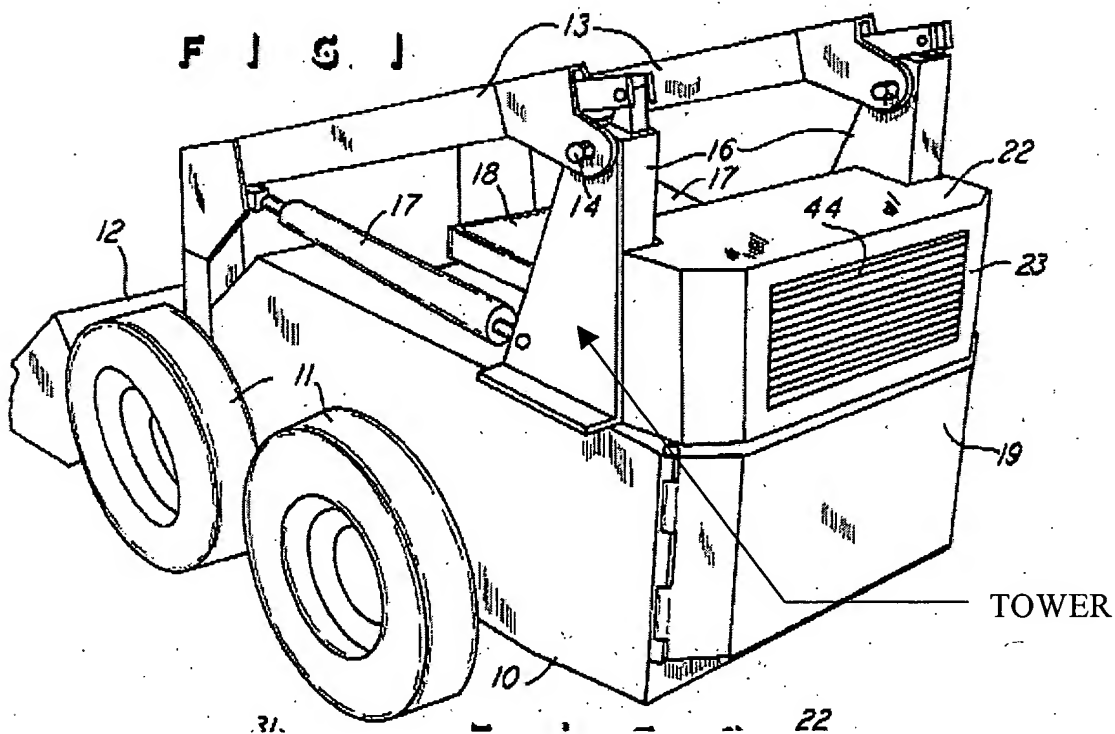
a pair of boom arms (13) pivotally connected (14) at base ends thereof to a top of each tower, respectively and connected at distal ends thereof to said loader bucket (see sketch next page); and

said towers providing substantially vertical load paths therethrough between the boom arms and the chassis, said towers shaped to provide a laterally displaced load path through a portion of each of said substantially vertical load paths changing said substantially vertical load

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paths from closer together at tops of said towers to further apart at bottoms of said towers (see following comment).

Regarding the last lines of claim 1; note on the following sketch that a substantially vertical load path exists between the top and the bottom of the towers. Note also that the very base of the towers has a wider portion. Note that in this wider portion at the base that the vertical load path that this "portion" of the load path will be displaced laterally and further apart, since there is a wider cross-section of the tower in which the load is distributed.



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6. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent 1248551.

German Patent 1248551 teaches a utility vehicle comprising:

a chassis (4) supported on wheels (Figure 1);

a loader bucket (7);

a pair of towers (5 and 10 - see comments below) supported on said chassis and extending substantially vertically (Figure 1), said towers shaped to have outside edges that are further apart at a bottom thereof and closer at a top thereof (Figure 1); and

a pair of boom arms (6) pivotally connected (8) at base ends thereof to a top of each tower, respectively and connected at distal ends thereof to said loader bucket (see sketch next page); and

said towers providing substantially vertical load paths therethrough between the boom arms and the chassis, said towers shaped to provide a laterally displaced load path through a portion of each of said substantially vertical load paths changing said substantially vertical load paths from closer together at tops of said towers to further apart at bottoms of said towers (see following comment).

Regarding the last lines of claim 1, note that the tower portions 5 and 10 are fastened to each other. Note also that Figure 2 shows that the tower portion 5 may be disconnected from the vehicle by unfastening tower portion 5 from tower portion 10. The other drawing figures then show that tower portion 5 is then attached to the vehicle by fastening (11 and 12) tower portion 5

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and 10 together. Due to this, some load must be transferred between tower portions 5 and 10 in use, otherwise, the tower portion would not stay attached when the bucket is experiencing heavy loads, such as when digging. Since tower portion 10 is located "lateral" of tower portion 5, the load path will be displaced laterally and further apart toward the bottom of the tower (5 and 10)

Regarding the recitation of a pair of towers, which the Examiner says is taught by both reference numbers 5 and 10 of German Patent 1248551, note that Figure 5 shows that each tower is an assembly comprising reference numbers 5 and 10 which are connected by reference numbers 11 and 12.

Regarding claim 5, note "offset" (where 10 ends) substantially midway between a base and distal end of each tower.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moe, US Patent 3,949,889, in view of Fuzzen, US Patent 5,387,076 and Schupback, US Patent 6,572,323.

Moe teaches a utility vehicle comprising:

a chassis supported on wheels (Figure 1);

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a pair of towers (73) supported on said chassis and extending substantially vertically (Figure 1);

a pair of boom arms (131 and 132) pivotally (137 and 138) connected at base ends thereof to tops of said towers, respectively, and connected at distal ends thereof to said loader bucket, said boom arms extending in parallel from said loader bucket rearward (Figure 2)

Moe fails to teach a loader bucket. Moe instead teaches a fork (133). Moe also fails to teach the boom arms at a substantially midway position being angled inwardly to said base ends.

However, Fuzzen teaches a utility vehicle comprising a bucket (36). A bucket is advantageous over a fork when large amounts of dirt, or other granular-type solid are to be dug-up, or moved.

Also, Schupback teaches a utility vehicle comprising a boom arm which at a substantially midway position being angled inwardly to said base ends. A boom arm which at a substantially midway position being angled inwardly to said base ends is advantageous in that the inward angling improves visibility of the corner of the tool being supported by the boom arm (see lines 45-47 of column 1 of Schupback.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a bucket in the vehicle of Moe, as taught by Fuzzen. It also would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize

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a boom arm which at a substantially midway position being angled inwardly to the base ends in the vehicle of Moe, as taught by Schupback.

Regarding claim 9, see reference number 88, noting reference number 88 (web) is further "outboard" than rest of tower.

Allowable Subject Matter

9. Claims 2-4 and 10-20 are allowed.
10. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Examiner's Comments

11. The amendment (paper 7) resolved all specification and claim objections made on the first Office Action.
12. The amendment and drawing corrections (paper 7) resolved all drawing objections made on the first Office Action, with the exception that the drawings are informal.
13. The amendment resolved the 35 USC 112 2nd paragraph rejections made on the first Office Action.
14. Even after amending claim 1, claims 1 and 5 are still rejected under 35 USC 102, as set forth in this Office Action. The amendments to the claims has overcome all other 102 rejections

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made on the last Office Action (paper 6). The amendment to claim 8 resulted in the new grounds of rejection of claims 8 and 9 in this Office Action.

Conclusion

15. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Westendorf - teaches loader

B) Zeuner, et al - teaches loader


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C)Biemans, et al - teaches loader

17. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (703) 306-5955. The examiner can normally be reached on Monday through Friday from 7:30 to 4:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson, can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


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6/6/03